

Message Text

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ACTION EA-10

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R 130945Z FEB 75

FM AMEMBASSY MANILA

TO SECSTATE WASHDC 593

INFO CINCPACREPPHIL

C O N F I D E N T I A L SECTION 1 OF 2 MANILA 1960

E.O. 11652: GDS

TAGS: MARR, EFIN, RP

SUBJECT: PESO SALES BY U.S. MILITARY BANKING FACILITIES

REF: (A) STATE 24418; (B) STATE 23542; (C) STATE 223585;

(D) MANILA 1668

SUMMARY. REFERENCED MESSAGE INFORMED EMBASSY (A) OF REPORT FROM FNCB MILITARY BANKING FACILITY AT CLARK AIR BASE THAT EMBASSY IS PRESSING MILITARY BANKING FACILITIES TO CEASE SALE OF PESOS TO NON-APPROPRIATED FUND ACTIVITIES AND TO INDIVIDUALS, (B) OF REPORT FROM TREASURY THAT QUESTION HAS BEEN RAISED REGARDING AUTHORITY OF MBFS TO MAKE PESO SALES AND (C) OF DEPARTMENT SUGGESTION THAT NO REQUIREMENT EXISTS IN MILITARY BASES AGREEMENT OR OTHER AGREEMENT THAT MBFS MUST COMPLY WITH PHILIPPINE BANKING REGULATIONS, AT LEAST FOR INTRA-U.S. GOVERNMENT TRANSACTIONS. THIS MESSAGE REVIEWS ISSUE OF MBFS'S PWSO SALES AUTHORITY. IT NOTES (A) THAT FNCB REPORT IS NOT REPEAT NOT CORRECT, (B) THAT AUTHORITY OF MBFS TO ENGAGE IN PESO SALES IS NOT REPEAT NOT BEYOND QUESTION -- RATHER STATUS OF MBFS IS SUBJECT OF SPECIFIC DIPLOMATIC EXCHANGE, AND (C) THAT PHILIPPINE AUTHROITIES HAVE JURISDICTION OVER BANKING AND MONETARY TRANSACTIONS OCCURRING IN THE PHILIPPINES IN THE ABSENCE OF SPECIFIC EXCEPTIONS IN INTERNATIONAL AGREEMENTS OR PRACTICE. MESSAGE RECOMMENDS THAT POLICY DECISIONS REGARD-
ING MBFS BE COORDINATED WITH EMBASSY AND DEPARTMENT TO
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ENSURE MAINTENANCE OF SATISFACTORY RELATIONS WITH

PHILIPPINE AUTHORITIES RESPONSIBLE FOR MONETARY AND
BANKING POLICY. END SUMMARY.

1. EMBASSY DOES NOT KNOW BASIS FOR FNCB REPORT THAT EMBASSY IS PRESSING MBFS TO CEASE SALE OF PESOS TO NON-APPROPRIATED FUND ACTIVITIES AND INDIVIDUALS. EMBASSY HAS HAD NO CONTRACT WITH CLARK MBF ON THIS ISSUE AND IS EXERTING NO PRESSURE FOR MBFS TO CEASE CONVERTING DOLLARS TO PESOS. EMBASSY HAS BEEN INFORMED THAT A FEW MONTHS AGO AIR FORCE AUTHORITIES DIRECTED THAT PHILIPPINE REGIONAL EXCHANGE OBTAIN PESOS FROM MILITARY DISBURSING OFFICERS, BUT EMBASSY UNDERSTANDS CLARK AUTHORITIES HAVE NO PRESENT INTENTION OF PROHIBITING PESO SALES BY MBFS TO OTHER NON-APPROPRIATED FUND ACTIVITIES OR TO INDIVIDUALS. FURTHER AF ACTION WAS NOT RELATED TO QUESTION OF AUTHORITY MBFS TO SELL PESOS.

2. TO CLARIFY THE RECORD, MBFS AT SUBIC AND CLARK WERE ESTABLISHED ON THE BASIS OF EXCHANGES OF NOTES BETWEEN GOVERNMENTS OF U.S. AND PHILIPPINES REGARDING U.S. DESIRE TO HAVE PHILIPPINE COMMERCIAL BANKING FACILITIES ON THESE BASES AND EXPRESSING U.S. INTENT TO ESTABLISH ON BASE MILITARY BANKING FACILITIES. FIRST EXCHANGE OF NOTES CONCERNED SUBIC NAVAL BASE AND OCCURRED IN 1965. THIS EXCHANGE WAS PRECEDED BY STRONG PHILIPPINE GOVERNMENT OPPOSITION TO ESTABLISHMENT OF MBF. PHILIPPINE GOVERNMENT INITIALLY REJECTED U.S. GOVERNMENT PROPOSAL. FOLLOWING THIS REJECTION NEGOTIATIONS BETWEEN REPRESENTATIVES OF EMBASSY AND DEPARTMENT OF FOREIGN AFFAIRS WERE CARRIED OUT. THESE NEGOTIATIONS INCLUDED PRESENTATION BY EMBASSY TO DFA OF AIDE-MEMOIRE WHICH INCLUDED FOLLOWING STATEMENT. QUOTE IT IS NOT INTENDED THAT THE TREASURY FACILITY ACCEPT PESO ACCOUNTS, SELL LOCAL CURRENCY, OR PROVIDE SERVICES FOR FILIPINO EMPLOYEES AT THE NAVAL BASE. UNQUOTE NEGOTIATIONS CONCLUDED WITH EXCHANGE OF NOTES REGARDING ESTABLISHMENT AT SUBIC OF MBF AND PHILIPPINE COMMERCIAL BANK. TO EMBASSY'S KNOWLEDGE, OFFICIAL STATEMENT IN AIDE-MEMOIRE OF USG INTENTIONS REGARDING PESO SALES BY MBFS HAS NEVER BEEN OFFICIALLY MODIFIED OR RETRACTED IN ANY WAY. IN PARTICULAR, EMBASSY HAS NO EVIDENCE THAT EFFORT WAS CONFIDENTIAL

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MADE TO ESTABLISH A DIFFERENT AGREEMENT AT TIME CLARK MBF WAS OPENED.

3. DESPITE EXISTENCE OF AIDE-MEMOIRE STATEMENT AND AVAILABILITY OF PESOS FROM PHILIPPINE COMMERCIAL BANKS, MBFS AT CLARK AND SUBIC ARE REPORTED TO HAVE ENGAGED IN PESO SALES SOON AFTER DATES THEY WERE ESTABLISHED, AND THEY ARE OBVIOUSLY IN THAT BUSINESS NOW WITHOUT OFFICIAL

CONSENT. AVAILABILITY OF PESOS FROM MBFS PROVIDES CONVENIENCE TO THOSE INDIVIDUALS WHO MIGHT OTHERWISE HAVE TO PURCHASE PESOS FROM PHILIPPINE COMMERCIAL BANKS ON OR OFF BASE. FOR NON-APPROPRIATED FUND ACTIVITIES AT SUBICN PURCHASE OF PESOS FROM MBF HAS ARTIFICIAL QUALITY AT MBF MUST ACQUIRE PESOS FROM ON BASE PHILIPPINE COMMERCIAL BANK AND NON-APPROPRIATED FUND ACTIVITY MUST DEPOSIT PURCHASED PESOS IN ITS ACCOUNT IN SAME PHILIPPINE COMMERCIAL BANK CLARK MBF PURCHASES PESOS IT SELLS FROM ITS SISTER FNCB COMMERCIAL BANK IN MANILA.

4. EMBASSY HAS NOT AND DOES NOT NOW RECOMMEND THAT MBFS DISCONTINUE THEIR PESO SELLING ACTIVITIES. THESE ACTIVITIES PROVIDE AS SAID A CONVENIENCE TO INDIVIDUALS AND SOME INCOME TO MBFS. PHILIPPINE GOVERNMENT IS UNDOUBTEDLY AWARE OF THESE ACTIVITIES AND HAS NOT OBJECTED TO THEM. IT PRESUMABLY WILL NOT OBJECT IN THE ABSENCE OF PROVOCATION ARISING FROM CHANGES MADE IN MBF ROLES WITHOUT ITS KNOWLEDGE OR APPROVAL OR WHICH TEND TO GIVE MBFS A COMMERCIAL BANKING ROLE WHICH THEY ARE NOT EXTENDED UNDER EXISTING AGREEMENT. AIDE-MEMOIRE LANGUAGE CLEARLY PROVIDES POSSIBLE BASIS FOR CHALLENGE BY GOP OF PESO SELLING ACTIVITIES RXF MBFS.

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ACTION EA-10

INFO OCT-01 ISO-00 ABF-01 FS-01 TRSE-00 PM-03 DODE-00

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5. IN VIEW OF GOP INTEREST IN ACTIVITIES OF MBFS AND INCOMPLETE DOCUMENTATION OF THEIR PRESENT ROLE, EMBASSY IS TROUBLED BY APPARENT ASSUMPTION IN REF C

THAT MBFS CAN DO ANYTHING NOT SPECIFICALLY PROHIBITED IN MILITARY BASES AGREEMENT OR OTHER AGREEMENTS BETWEEN TWO GOVERNMENTS. NORMAL INTERNATIONAL PRACTICE AS WE UNDERSTAND IT IS FOR GOVERNMENT OF EACH COUNTRY TO EXERCISE SOVEREIGN POWER WITHIN TERRITORY OF COUNTRY OVER MONETARY AND BANKING AFFAIRS AND OTHER MATTERS. EXCEPTIONS TO JURISDICTION OF NATIONAL AUTHORITIES WOULD SEEM TO OCCUR ONLY ON BASIS OF SPECIFIC AGREEMENTS. LEGAL FRAMEWORK FOR ACTIVITIES OF MBFS IS THUS A VERY LIMITED ONE. NOTHING IN AGREEMENTS BETWEEN USG AND GOP SPECIFICALLY AUTHORIZES MBFS TO ENGAGE IN PESO SALES. MOREOVER, RATIONALE FOR PROVISION OF ON BASE COMMERCIAL SERVICES HAS BEEN THEIR UNAVAILABILITY FROM LOCAL SOURCES, WHICH OBVIOUSLY IS A NON-ARGUMENT IF FILIPINOS AT THIS TIME CHOOSE TO CONTEST THIS RATIONALE. INTERNATIONAL PRACTICE DOESN'T PROVIDE A SATISFACTORY EXCEPTION EITHER. EVEN THOUGH NATIONAL AUTHORITIES TRADITIONALLY APPEAR TO HAVE AVOIDED CLOSE SCRUTINY OF MBFS TRANSACTIONS IN THIS CASE, THEIR WILLINGNESS TO INCLUDE UNDER THIS EXCEPTION TRANSACTIONS BETWEEN ORGANIZATIONS PROVIDING ESSENTIALLY PRIVATE, LOCAL, COMMERCIAL BANKING SERVICES TO GOVERNMENT EMPLOYEES AND THEIR SERVICE ORGANIZATIONS IS NONETHELESS DUBIOUS AND ALWAYS SUBJECT TO CHALLENGE.

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6. EMBASSY WOULD URGE THAT CHANGES IN THE SCOPE AND CHARACTER OF PRESENT MBF OPERATIONS AND SERVICES NOT REPEAT NOT BE UNDERTAKEN IN ANY WAY TO INCREASE THEIR CHALLENGE TO PHILIPPINE COMMERCIAL BANKS. RATHER, EMBASSY BELIEVES IT PRUDENT TO CONFINE MBF ACTIVITIES AS MUCH AS POSSIBLE TO SERVICE OF PARTICULAR U.S. INTEREST WHICH PHILIPPINE AUTHORITIES ARE NOT LIKELY TO PROTEST ON GROUND THAT SUCH SERVICES ARE DEMONSTRABLY AVAILABLE THROUGH PHILIPPINE COMMERCIAL BANKS. AS IN CASE OF RECOUPMENT BUT OF GREATER OVERALL IMPORTANCE, THEREFORE, EMBASSY BELIEVES THAT POLICY GUIDANCE TO MBFS AND ANY SUGGESTED CHANGES IN THEIR ACTIVITIES SHOULD BE CAREFULLY COORDINATED. AS IT NOW STANDS, THE WORKING

OF EXISTING AGREEMENTS IS MORE THAN AMPLY ADVANTAGEOUS TO THE UNITED STATES.

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